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Sent: 6/29/2020 7:22:35 PM
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Subject: 2017 version of CEA - redline
Attachments: Dewey-BurdockDraftCEA_August2019-updated (2).docx

Hi Darcy, all: below are the excerpts that were included in the 2017 CEA in case you'd like to see the actual text regarding the discussion on the short-horned lizard and tribal vegetation that were added in response to comments raised during tribal consultation. The entire 2017 document is included for further context – please see pp. 143-44 redline text. As you recall, without the 2017 text, the current CEA just has Section 14.1 (copied and pasted at bottom of this email) which is limited to discussion of the three ESA-listed species only. Please let us know if we can provide any further information, or if you have any questions. Thanks!

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14.2 Species of State and Tribal Interest: The Short-Horned Lizard

During EPA's tribal consultation process, a tribal member mentioned sighting a short-horned lizard while visiting the Dewey-Burdock Project Site. The short-horned lizard, genus *Phrynosoma*, which means "toad body," is also called "horny toad" because of the wide flat body.

The short-horned lizard is listed as rare in South Dakota and, as such, is protected from collection, capture, and disturbance. Population numbers are monitored and habitats protected through the South Dakota Natural Heritage Program. Threats to the short-horned lizard include the loss of habitat to development and agriculture, the loss of prey species from agricultural practices, and human exploitation.

The short-horned lizard *Phrynosoma hernandesi* is listed under Rare Animals Tracked by the South Dakota Natural Heritage Program at <http://gfp.sd.gov/wildlife/threatened-endangered/rare-animal.aspx>. The short-horned lizard is found in the western South Dakota in Butte, Fall River, Harding, Meade, Perkins, and Shannon Counties.

The report entitled *Short-Horned Lizard (Phrynosoma hernandesi) Survey in South Dakota* documents a study by the Department of Biology at Black Hills State University. The report states that the short-horned lizard is considered secure range-wide, but imperiled within South Dakota due to its rarity. The report states that the major concern regarding threats to this species in South Dakota is the conversion of native prairie into cropland or densely-planted pasture. Other conservation concerns include widespread insecticide use killing lizard food sources, heavy use of sand or dirt roads through short-horned lizard habitat, and the potential for commercial collection. The lizards are thought to range broadly in Fall River County across much of the remaining natural prairie within and south of the Cheyenne River basin. The lizards like sand or dirt roads and are found dead on these roads. There is a concern that increased vehicle traffic is detrimental to short-horned lizard populations.

The short-horned lizard is important in some tribal cultures. Known as *Che* or the grandfather to some cultures, the horned lizard represents permanence, good health, and strength. Named "Ptehe Agleska" in Lakota, the horny toad represents secrecy, mystery and the keeper of valuable secrets. The short-horned lizard is often depicted in Native American artwork.

The area that will be impacted by ISR operations within the Dewey-Burdock Project Area is shown in Figure 22. As discussed in Section 6.0 of this document, this land is used as rangeland for cattle grazing and agricultural cropland, so is no longer native prairie. Because the habitat of the short-horned lizard is native prairie, the EPA does not expect the

short-horned lizard or its habitat will be impacted by ISR activities. Once construction activities begin at the site, the EPA expects that the any short-horned lizards that were in the area will seek less disturbed locations.

14.3 Tribal Concerns about Impacts to Vegetation

During EPA's tribal consultation activities, several tribes expressed concerns about impacts to ceremonial and medicinal plants. The concerns were related to proper identification of ceremonial and medicinal plants, documentation of locations in areas where the plants may be disturbed and the reclamation of the plants upon decommissioning of the project site.

The NRC GEIS noted that tribal populations in the Great Plains still engage in hunting and wild plant gathering. Herbs gathered for subsistence, medicinal and ritual/ceremonial uses remain important to maintaining traditional cultural practices. Traditional use areas claimed by the tribes are places in which traditional subsistence practices and the procurement of animals and plants for ritual, ceremonial, medicinal and other traditional needs should be considered in assessing impacts from ISR operations.

Climate Change Impacts in the United States, Chapter 19, Great Plains notes that tribal members have reported the decline or disappearance of culturally important animal species, changes in the timing of cultural ceremonies due to earlier onset of spring, and the inability to locate certain types of ceremonial wild plants due to climate change impacts. For this reason, it is important to take into account impacts to ceremonial and medicinal plants. As discussed in Chapter 19, climate change impacts in the northern Great Plains include projected increases in winter and spring precipitation, which should be favorable to vegetation.

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14.1 Federally-listed Threatened and Endangered Species Evaluated under the Endangered Species Act

The EPA completed the process of evaluating impacts to federally-listed in compliance with section 7 of the Endangered Species Act, 16 U.S.C. 1531 et seq. The EPA concluded that issuance of the UIC Class III and Class V Area Permits *may affect, but is not likely to adversely affect*, the listed threatened or endangered species or the designated critical habitat for the species found in/near the project area. The US Fish and Wildlife Service (USFWS) responded in writing on July 8, 2019 concurring with EPA's findings.

The EPA completed a Biological Assessment which is available for review under Docket EPA-R08-OW-2019-0512 on the Regulations.gov website. The EPA developed a Biological Assessment (BA) document and submitted it to the USFWS for review and concurrence (see below). The purpose of the BA was to address the effects that UIC Class III and Class V Area Permit issuance may have on species listed as endangered or threatened under the Endangered Species Act (ESA), and their designated critical habitat.

On May 1, 2019, the EPA started reviewing the USFWS Section 7 Consultation website called Information for Planning and Consultation (IPaC) for a list of species and critical habitat that may be present within the project area. The USFWS website was also used to research critical habitats and population for the species that may be present. The eBird Range map (<https://ebird.org>) recommended by the USFWS website resources section, was also used to research habitat and population for bird species. The following are the three species that may be present inside the project area:

1. NORTHERN LONG-EARED BAT (MYOTIS SEPTENTRIONALIS) - According to the USFWS website, no critical habitat has been reported inside the project area for this species. The Powertech wildlife survey identified bats but did not identify the species. There are no reports of critical habitat for the northern long-eared bat inside the project area. There are mine shafts reported inside the project area that must be investigated for bat populations. The species of bat observed at the site should be identified.
2. RUFA RED KNOT (CALIDRIS CANUTUS RUFA) - According to the USFWS website, no critical habitat has been reported inside the project area for this species. According to the eBirdRange Map, there are no reports of this species inside the project area.

3. WHOOPING CRANE (GRUS AMERICANA) - According to the USFWS website, no critical habitat has been reported inside the project area for this species. According to the eBird Range Map, there are no reports of this species inside the project area.

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